UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,515	12/07/2001	Guy G. Riddle	18602-06587 (P1517USR1)	8767

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EXAMINER
LIN, KENNY S

ART UNIT	PAPER NUMBER
2452	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/020,515	RIDDLE, GUY G.
	Examiner	Art Unit	
	KENNY S. LIN	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *25 February 2008*.

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-16 and 21-46* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *16, 21-46* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date *2/7/08, 12/10/07*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-16 and 21-46 are presented for examination. Claims 17-20 are canceled.

Information Disclosure Statement

2.   The IDS submitted on 12/10/2007 and 2/7/2008 are considered. Some documents are

illegible and cannot be considered.

Reissue Applications

3.   Claims 16 and 21-46 are rejected under 35 U.S.C. 251 as being improperly broadened in

a reissue application made and sworn to by the assignee and not the patentee. A claim is broader

in scope than the original claims if it contains within its scope any conceivable product or

process which would have infringed the original patent. A claim is broadened if it is broader <u>in</u>

<u>any one respect</u> even though it may be narrower in other respects.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 21-26, 29-30, 33-39, 42-43 and 46 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Alvarez, III et al (Alvarez), US 4,507,781, in view of Auerbach et al

(Auerbach), US 5,355,371.

6.   Alvarez and Auberbach were cited in the 1/7/2003 IDS.

7.   As per claims 21, 33-34 and 46, Alvarez discloses in a system wherein a first entity and a

plurality of second entities in a network are operating in a point-to-point mode, with each of said

second entities connected by a point-to-point communication channel with said first entity (fig.1,

col.4, lines 22-24, col.3, lines 53-62). Alvarez further discloses communication in multipoint

mode (conferencing, col.4, lines 1-6). Alvarez does not explicitly discloses when the system is

switched to the multipoint mode the point-to-point mode is disabled. However, since the import

intranodal buffers are set to the same partition, this disables the ability of the intranodal buffer to

participate in duplex communication.

8.   Alvarez does not disclosed when communicating in the multipoint mode, the first

endpoint activating a multicast channel, transmitting a request message and receiving

acknowledgements. However, in an analogous art, Auerbach discloses in a system wherein a

first entity and a plurality of second entities in a network are operating in a point-to-point mode,

with each of said second entities connected by a point-to-point communication channel with said

first entity (fig.4), an automatic method for optimizing a mode of transmission of data between

said plurality of second entities and said first entity, the method comprising the following steps:

      a. Said first entity multicasting a request message to said plurality of second entities over a communication channel, said request message being used to initiate transition from said point-to-point mode to a multicast mode (col.8, lines 40-43);

      b. Said first entity receiving from certain of said plurality of second entities an acknowledgement message in response to said request message, said acknowledgement message indicating that each of said certain of said plurality of entities was able to receive said multicast request message (col.8, lines 43-49).

9.   It would have been obvious to one of ordinary skill in the art to combine the teachings of Alvarez and Auerbach to implement a system where a first endpoint can activate a multicast communication channel, and having the first endpoint query the second endpoints to see if they are able to receive multicast, using acknowledgement responded by the second endpoints, and then disable the point-to-point communication channel in order to setup multicast communication routes independent of the control, configuration and administration of an operator (Auerbach, col.2, lines 38-41).

10.   As per claims 22-23 and 35-36, Alvarez and Auerbach did not specifically teach that the acknowledgement message includes a response code. However, the use of response code in messages is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include response code in message indicating whether the receiving end can response to it or not.

11.   As per claims 24 and 37, Alvarez and Auerbach did not specifically teach that the data

comprises audio data and video data. However, the transmission of audio and video is well

known and expected in the art (For example, Dangi et al, US 5,231,492, cited by the applicant in

the 8/8/2007 IDS discloses audio and video transmission).

12.   As per claims 25 and 38, Auerbach further discloses to operate each of said certain of

said plurality of second entities in a multicast mode (col.8, lines 40-49).

13.   As per claims 26, and 39, Auerbach further discloses, for any of said plurality of second

entities which do not send an acknowledgement, continuing to operate said first entity in a point-

to-point mode with such non-acknowledging second entities (col.9, lines 10-13).

14.   As per claims 29-30 and 42-43, Auerbach further discloses said first entity transmitting a

first message comprising capabilities of said first entity to at least a portion of said plurality of

second entities; said second entities transmitting a second message comprising respective

capabilities of said at least a portion of said second entities to first entity substantially in response

to said first entity transmitting said first message (col.8, lines 40-49: required information and

response).

Response to Arguments

15.   In the remark, applicant overcame the 112 rejection. Applicant further argued (1)

Alvarez does not disclose "deactivating a point-to-point communication channel between said

first entity and said certain of said plurality of second entities."

16.   Examiner traverse the argument:

        As to point (1), applicant argued that even if Alvarez disclosed that once an intranodal

conference connection exists, intranodal point-to-point functionality is not available, this still

would not show the deactivation of a point-to-point communication channel. However, this

argument is flawed. The definition of "deactivate" is to "make inactive of". This is different

from the meaning of "terminate". According to the applicant's claim language in claim 1, the

words "deactivating" and "terminating" are used for different purpose and to mean different

actions. This clearly shows that "deactivating" is not the same as "terminating". Therefore,

disabling the functionality of the point-to-point communication channel reads on the definition of

"deactivating (e.g. make inactive)".

        Alvarez disclosed in column 3 that while using point-to-point transmission in internodal

mode, an intended destination port is used. However, when using multicasting or conferencing

transmission, all the ports are used. Because all ports are occupied while using multicast, the

point-to-point communication channel must be inactive during multicasting process (e.g.

deactivated). The same goes with intranodal mode.

        For at least these reasons, Alvarez reads on the limitation of deactivating a point-to-point

communication channel between said first entity and said certain of said plurality of second

entities.

Conclusion

17.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

18.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The

examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number

for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kenny S Lin/
Primary Examiner, Art Unit 2152
February 26, 2009